

DECISION  
TALBOT COUNTY BOARD OF APPEALS  
Appeal No. 18-1681

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals (the Board) at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 6:30 p.m., August 27, 2018 on the Application of **BOZMAN COUNTRY STORE, c/o DEBRA STOCKMAN-LIER**, contract purchaser, (collectively, Applicant). The Applicant is seeking a special exception to operate a general retail store. The request is made in accordance with Chapter 190, Zoning, Article III, §190-16 and Article IX, §190-180 of *Talbot County Code* (the *Code*). The property is located at 7980 Quaker Neck Road, Bozman, MD 21612 in the Village Center (VC) zone. The property owners are Harry and Kathleen Cooper, *et al.*, and the property is shown on Tax Map 31, Grid 16, Parcel 112, tax assessment account identifier 02-070499.

Present at the hearing for the Board of Appeals were: Paul Shortall, Jr., Chairman; Phillip Jones, Vice Chairman; members John Sewell, Louis Dorsey, Jr. and Frank Cavanaugh. Anne C. Ogletree served as attorney for the Board of Appeals. Miguel Salinas, Assistant Planning Officer and Brennan Tarleton, Planner I were in attendance.

The Chairman inquired if all members had visited the site and received affirmative responses.

The following exhibits were offered and admitted into evidence as indicated:

- Exhibit 1. Application for Special Use Exception and Attachment A;
- Exhibit 2. Copy of tax map with subject property highlighted in yellow;
- Exhibit 3. Notice of Public Hearing published in the Star Democrat;
- Exhibit 4. Newspaper Confirmation;
- Exhibit 5. Notice of Public Hearing & Adjacent Property Owners List;
- Exhibit 6. Standards for Special Exception with attachment B;
- Exhibit 7. Staff Report prepared by Brennan Tarleton, Planner I;
- Exhibit 8. Planning Commission Comments;
- Exhibit 9. Sign Maintenance Agreement;
- Exhibit 10. Comments from Jennifer Esposito, Critical Areas Commission dated 8/13/18;
- Exhibit 11. Comments from David Redman, State Highway Administration dated 7/17/18;

- Exhibit 12. Authorization Letter;
- Exhibit 13. Independent Procedures Disclosure and Acknowledgment Form;
- Exhibit 14. Critical Area Lot Coverage Computation worksheets;
- Exhibit 15. Aerial plat from Lane Engineering;
- Exhibit 16. Plat by Lane Engineering, Job No. 180158;
- Exhibit 17. Elevation Plans;
- Exhibit 18. Foundation and Floor Plan.

Mr. Shortall requested that those who might wish to testify rise and be sworn. All witnesses were sworn.

Mr. Brett Ewing, Lane Engineering, LLC, 117 Bay Street, Easton, MD 21601 introduced himself. He advised the Board that he was assisting the Applicant with the application. He explained that the Applicant is aware that there is legislation pending that would authorize the requested use as of right, however, the Applicant has chosen to proceed under the current ordinance to gain assurance that the use will be permitted before the Applicant proceeds to closing on the property. Closing is currently scheduled for August 31, 2018. Before addressing the technical warrants, Mr. Ewing opined that the use was fully in accordance with the *2016 Talbot County Comprehensive Plan*, (the *Plan*) and was an appropriate use for the location. He introduced Mr. Lee Holt, the Applicant's real estate agent.

Mr. Holt, P.O. Box 361, Bozman, MD 21612, previously sworn, apprised the Board of the search for a suitable location for the project. He told the Board that the Applicant had approached him the previous fall wanting to reopen the Bozman Store. The original store had closed some time ago, and the original location was on the market. When the Applicant explored the possibility of reopening the store at the original location, there were Health Department sewage concerns that could not be adequately addressed given the size of that lot and the anticipated flow. It appeared that the original location would be viable only if public sewer was available, and the projections are that public sewer for the property is still three (3) to four (4) years away. The Applicant then made the decision to pursue this proposed location.

Mr. Holt explained that the proposed location is across from the Bozman post office, and was formerly the site of the Bozman School. The owner of the proposed location previously had a sewage reserve area (SRA) established and located for possible residential use. He added that the current owner is related to the original owner of the old

Bozman store, and was in full support of the project.

Mr. Holt noted that the contract of sale for the purchase had been extended several times. The extensions were to allow the Applicant to get “clarity” regarding the use of the property as a general store. With the last extension deadline looming, the Applicant had decided to proceed before the Board to achieve certainty regarding the proposed use before she went to settlement.

Ms. Stockman-Lier, P.O. Box 187, Bozman, MD 21612 was the Applicant’s second witness. She advised the Board that she is the contract purchaser of the proposed location. Her parents live in Bozman and have for the last twenty- five (25) to twenty-eight (28) years. She is coming back home after residing in France for some time. On her visits home she has seen the necessity for a general store to serve the local community. Currently residents have to run to St. Michaels for the most basic household items. Reviving the general store would make those items available in the locality and benefit the local community.

She testified that she also plans to serve breakfast and lunch – on her trips home she has noticed the lack of a ‘food service’ accessible for watermen, local residents, and for those without transportation, and hopes to fill that void. Once the store is up and running she would like to consider a meal delivery service. She believes the local residents – the elderly and home bound particularly-- are currently underserved, and would benefit from being able to have meals delivered to their doors. She is looking forward to getting started if the Board gives her the requested special exception approval.

Mr. Ewing then testified on behalf of the Applicant. He referred the Board to the written warrants and stated he wished to address how well the proposed use fit into the *Plan*. Chapter 9, A, B and C of the *Plan* addresses community design and appearance. Mr. Ewing pointed out that in the villages, the lots are relatively small in size, and it is important for new development to be similar in architectural style, size and scale to structures on existing properties. In this case, the location was formerly occupied by the Bozman school. The land has been vacant for some time. It is situated on a corner lot in the center of the village. Allowing the proposed use will comport with two goals of the *Plan*: (1) it will be in-fill development, maximizing the use of property already within the village boundaries; and (2) it will support the community by offering services and

products not currently available. As Exhibits 17 and 18 show, the proposed structure has been designed to mimic the old school structure as seen in pictures. It will have a wrap-around porch similar to many residential designs. Exhibit 17. The design will incorporate both historical and residential characteristics in keeping with the *Plan's* recognition that villages incorporate a mix of both residential and limited commercial uses

Mr. Ewing pointed out that there are four (4) dedicated parking spaces that will be utilized by both patrons and delivery trucks. He shared that there had been consideration given to requesting a variance of the fifteen percent (15%) lot coverage requirement to add additional parking, however, the Critical Areas Commission had been vehemently opposed and promised to appeal any development plan requesting a coverage variance. The existing proposal is for almost fourteen percent (14%) lot coverage, so there is no more room for on-site parking expansion. In summary, he believed the proposed project to be completely consistent with the *Plan*.

Mr. Jones commented that he did not have any difficulty with the use itself, however, he was concerned about a possible conflict with traffic. The old store had wide frontage on Md. Rt. 579, with ample parking. He thought delivery trucks would have a hard time navigating the parking area if patrons were already parked there. He did like the entrance on Quaker Neck Road from the standpoint of safety as vehicles on the state road have a tendency not to stop for emerging vehicles. He believed that adjustments would have to be made regarding parking, but thought the use to be otherwise appropriate.

Mr. Cavanaugh agreed. He foresaw tractor trailer issues if there were patrons parked. Mr. Ewing stated that the same concerns were raised at the Planning Commission. The Applicant believes that parking will be viable, and the Planning Commission approved the project with the standard condition that the Applicant obtain all necessary approvals or waivers. He added that limited parking has worked in both Tilghman and Cordova villages, but acknowledged that the Applicant does not have a perfect answer, her primary concern is to get the store up and running, then she will know what needs to be addressed and will determine how she can do so.

Ms. Stockman-Lier added that initially she expected that her deliveries would most likely be weekly, and that would alleviate congestion initially.

Mr. Shortall commented that the Applicant will have to see how it works to know what needs to be changed. The store hours are proposed to be from five (5) a.m. to six (6) p.m.

Mr. Cavanaugh noted that the deliveries were not going to be constant and might be scheduled at times when patrons were less apt to be on the premises. He added that the Planning Commission might have skipped over the fact that Bozman did not have a master plan as is required. Mr. Salinas responded that the special exception is permitted in the VC district, whether or not there is a village master plan, and felt there was some confusion, as the master plan language actually refers to major site plans and subdivisions rather than a special exception.

Mr. Dorsey stated that he did not see any members of the public present in opposition, so he believed the public had 'bought into' the concept of a new store. Mr. Holt agreed commenting that the project has wide support in the community.

The Applicant concluded its case. Mr. Shortall then recognized Marian Brown, 7671 Latch String Lane, Bozman, MD 21612 who wished to comment. Ms. Brown stated that at the current time, if one wanted to shop, one had to drive to St. Michaels. This was only one of the reasons she believed that the store would be a welcome addition to the community.

There being no other public comment, the Board made the following findings of fact and conclusions of law based on the Applicant's written responses, the testimony and the evidence presented:

1. The Applicant has submitted a written application for a special exception.
2. The public hearing was properly advertised and posted, and the adjacent land owners were properly notified. Exhibits 3, 4, 5 and 9.
3. The Applicant has received favorable recommendation from Staff for the reasons documented in exhibit 7, the Planning Staff Report authored by Mr. Tarleton.
4. The Planning Commission has approved the proposed project, as the use is a permitted use by special exception in the VC district. Exhibit 8.
5. The proposed use complies with the standards of the VC zoning district.
6. The applicant has researched the site and reviewed structures in the local area. As discussed by Mr. Holt, the proposed structure is modeled on the original Bozman school

that formerly occupied the site. The design also incorporates a wrap-around porch as can be found on residential structures in the area. The witnesses believed the structure as shown on Exhibits 17 and 18 would enhance the village atmosphere and be consistent with the village's historical and current appearances. The design and proposed landscaping will blend into the village setting nicely.

7. There was no evidence that the use would be a nuisance to other properties on the contrary, the use will supply needed essentials to the local community without the necessity of a trip to St. Michaels. The lot has been approved for a sewage system. The use as a store will not produce objectionable noise, odor vibration or glare. The proposed location is across Rt. 579 from the former Bozman Store location. There will be a maximum of two (2) employees, and it is anticipated that most deliveries will occur in the morning. No adverse impact on the neighbors is anticipated.

8. The Board recognizes that the constraints on parking imposed by lot coverage requirements may lead to traffic issues while deliveries are being made. The Board feels that those issues may be worked out by scheduling deliveries at times when business patrons are less likely to be parked in the allotted parking spaces. If adjustments are made, the issues should be manageable. Traffic concerns may have to be re-addressed once the business is "up and running".

The parking area is situated one hundred (100) feet from the Quaker Neck Road/ Md. Rt. 579 intersection, with good sight distance. The proposed entrance off of Quaker Neck Road will make entering the roadway easier for patrons leaving the store, as through traffic on the state road has a tendency not to slow down to permit vehicles to enter the flow.

9. The proposed use will not require additional public facilities or services. It replaces the former Bozman store, and the existing services and facilities served that location well.

10. The new store will be served by on-site well and septic, as shown on Exhibits 17 and 18. There should be no significant changes or effect on pedestrian, vehicular or marine traffic. The new store is projected to have patronage similar to that of the former store. Traffic to and from the site is expected to be of low intensity and is not expected to conflict with that of the post office located across Quaker Neck Road. Biking is



encouraged, and the site will have a bike rack available for parking bikes while patrons visit the establishment.

11. The proposed site is in the village center. It will not adversely affect wildlife, habitat or agriculture.

For the reasons set out in the Board's findings, Mr. Jones made a motion that the Applicant be granted the special exception subject to the conditions suggested by staff, as follows:

A. A County Council adopted Master Plan for the village of Bozman is required prior to the official review and approval of the major site plan for the use in accordance with the *Plan*; and

B. The Applicant shall take all required steps and acquire all necessary approvals, including any additional waivers necessary, required for a Major Site Plan and a Landscaping Plan as spelled out in the *Code*.

Mr. Dorsey seconded the motion. There was no further discussion on the motion. The Chairman called for a vote. The motion passed, 5-0 with all members voting to grant the special exception requested.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS,  
BY THE TALBOT COUNTY BOARD OF APPEALS,

RESOLVED, that the Applicant, **BOZMAN COUNTRY STORE, c/o DEBRA STOCKMAN-LIER**, is **GRANTED** the requested Special Exception consistent with the evidence presented to the Board of Appeals, and subject to the aforementioned conditions, by vote as previously noted.

GIVEN OVER OUR HANDS, this 5th day of October, 2018.

**TALBOT COUNTY BOARD OF APPEALS**



Paul Shortall, Jr., Chairman

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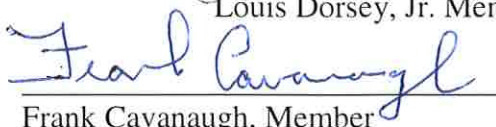
Phillip Jones, Vice Chairman



John Sewell, Member



Louis Dorsey, Jr. Member



Frank Cavanaugh, Member